

**Town of Underhill  
Development Review Board Minutes  
September 18, 2017**

**Board Members Present:**

Matt Chapek  
Daniel Lee  
Karen McKnight  
Penny Miller  
Stacey Turkos  
Charlie Van Winkle

**Others Present:**

Pete Czaja (86 Deane Road)  
Suzanne Kusserow (4 Acer Ridge)  
Michael Kramer (3 Acer Ridge)  
Nicole Bourassa (26 Waughbrook Lane)  
Mike Timbers (662 Irish Settlement Road)  
Gunner McCain (93 S. Main St., Ste. 1,  
Waterbury, VT)

**Staff/Municipal Representatives Present:**

Andrew Strniste, Planning Director

**6:30 PM – 09/18/2017 DRB Public Meeting**

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- DRB Members convened at Town Hall at 6:30 PM.
- [6:31] Chair Van Winkle called the meeting to order.
- [6:31] Chair Van Winkle asked for public comment. No public comments were provided.
- [6:33] Chair Van Winkle asked the Board if they had any requests for the Capital Improvement Plan. Board Member Miller mentioned the possible addition of an overhead projector with the understanding that it did not rise to the level of a Capital Improvement Plan. A brief discussion ensued about possibly acquiring a portable dry erase board.

**6:36 PM – Kramer/Czaja Subdivision Amendment & Conditional Use      Docket #: DRB-17-13  
Hearing  
3 Acer Ridge (AR003), Underhill, VT**

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**Note:** A 6:30 pm site visit was performed prior to the hearing.

- [6:36] Chair Van Winkle began the meeting by explaining the procedure for a subdivision amendment review and conditional use review hearing. The applicant, Michael Kramer, and his consultant, Pete Czaja, were before the Board to discuss amending the previously approved planned residential development to allow for the construction of a detached accessory dwelling on land Mr. Kramer owns at 3 Acer Ridge in Underhill, Vermont. Also in attendance was Suzanne Kusserow who was the original applicant for the previously approved planned residential development. Chair Van Winkle identified that Mr. Czaja was his neighbor; however, felt he could provide a fair and impartial decision. Board Member McKnight identified that Mr. Czaja was her contractor in the past; however, felt she could provide a fair and impartial decision. No objections were made. No other conflicts of interest were identified before the commencement of the hearing.
- [6:41] Staff Member Strniste advised that he found Exhibit H – Certificate of Service. He then advised that the anticipated Exhibit Q, a letter stating ability to service from the Mt. Mansfield Union School District had not been delivered at that time.
- [6:45] Mr. Czaja provided a brief overview of the project: an approximate 930 sq. ft., part-time residence that would not be limited to seasonal use. Mr. Czaja provided a copy of the floorplan, which was entered into the record as Exhibit Q. He then advised that the utilities

would be provided underground, and that the structure would be built into the hillside. Board Member Miller clarified that the driveway for the accessory structure would be built off an existing shared driveway. Staff Member Strniste advised that an access permit is required, and clarified that the driveway to the detached accessory structure would not be considered an extension of Acer Ridge.

- [6:50] Staff Member Strniste advised that his understanding was that two access points only required being maintained at B-71 standards, whereas an access way providing access at three points would require being maintained at A-76 standards. Board Member Miller clarified that the driveway would not have to be upgraded. Board Member McKnight felt that conclusion was correct, as upgrading the road would not serve the neighborhood.
- [6:55] Staff Member Strniste reviewed the comments enumerated into the Staff Report. Board Member Miller asked the applicant if they were amenable to providing shielding for the flood lighting, which they answered in the affirmative. Staff Member Strniste advised the applicant of the owner occupancy requirements for accessory dwellings. He then informed the Board that landscaping and screening measures were unnecessary after visiting the site.
- [7:03] Staff Member Strniste began a discussion on whether the applicant needed to show a building envelope for the detached accessory dwelling since a building envelope was not initially shown in the original planned residential development. Board Member Miller opined that the building envelope should be illustrated on the site plan. Staff Member Strniste advised that the Board could grant administrative authority to allow the applicant to subsequently build within the building envelope. Board Member Chapek provided input about the original planned residential application and how the Board derived the setbacks.
- [7:07] Ms. Suzanne Kusserow was happy that the Board discussed outdoor lighting.
- [7:08] Board Member Miller inquired about a road maintenance agreement. Staff Member Strniste advised that he did not know how to address the issue since the detached accessory dwelling is not on its own lot, and therefore, he did not know of a legal mechanism that was similar to a road maintenance agreement pertaining to separate deeded lots.
- [7:09] A discussion ensued about if the detached accessory dwelling was setback enough from the open space areas. The Board determined that the building envelope was located approximately 35 feet from open space area to the east, approximately 75 feet from the open space area to the south, and approximately 170 feet from the primary dwelling to the north. The Board clarified Ms. Kusserow's question that since the primary dwelling is approximately 40 to 45 feet from the open space area to the east, then the detached accessory dwelling is consistent with that setback distance to that open space area.
- [7:16] Board Member Miller asked about the waiving of a bond for planned residential developments. Chair Van Winkle advised that the Board would have to make a decision about the road. Gunner McCain, the consultant for the applicant in the next hearing, read a definition from the 2015 Road Ordinance, which appeared to clarify the unanswered question – that if the road is servicing three or more lots, then the access way is considered a development road. Staff Member Strniste then advised that while the emphasis of the hearing was on the subdivision amendment portion of the application, the application was also a conditional use review.
- [7:19] Chair Van Winkle asked if the Board had enough information to make a decision. The Board answered yes. Board Member Chapek made a motion to close the evidentiary portion of the hearing. Board Member Turkos seconded the motion. The motion was unanimously approved. Chair Van Winkle asked if the Board wanted to deliberate in open or closed deliberative session. Board Member Turkos made a motion to vote on the application in open deliberative session and craft the decision in closed deliberative session.



Board Member Miller seconded the motion, which was approved unanimously. Board Member Turkos made a motion to approve the application. Board Member Miller seconded the motion, which was approved unanimously. The Board moved into closed deliberative session.

- [7:21] Chair Van Winkle provided the applicant a timeline of events. Staff Member Strniste advised that the detached accessory dwelling would have its own E911 number, most likely 1 Acer Ridge; however, this would have to be confirmed.

## **7:26 PM – Minutes**

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- [7:26] Chair Van Winkle asked for a motion to approve the minutes of August 21, 2017. Board Member Miller made a motion to approve the minutes of August 21, 2017, which was seconded by Board Member Chapek. The motion was approved unanimously.

## **7:30 PM – Timbers Sketch Plan Review Meeting 662 Irish Settlement Road (IS662), Underhill, VT**

**Docket #: DRB-17-14**

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- [7:30] Chair Van Winkle began the meeting by explaining the procedure for the sketch plan review meeting. The applicant, Mike Timbers, and his consultant, Gunner McCain, were before the Board to discuss a proposed 2-lot subdivision that Mr. Timbers owns at 662 Irish Settlement Road in Underhill, Vermont. No other parties were in attendance. No conflicts of interest were identified before the commencement of the meeting.
  - [7:34] Mr. McCain provided an overview of the project, explaining that the proposed Lot 1 contained the existing structures, while the proposed Lot 2 would be accessed by a shared driveway currently serving 654 Irish Settlement only via an easement over Lot 1. He then confirmed that the current easement allows for an additional driveway off of the current driveway. Mr. McCain then advised that he hoped the Board would waive preliminary subdivision review. Mr. McCain then elaborated on the driveway, which he informed that he may need to reduce the slope even though it may require additional earth work.
  - [7:40] Mr. McCain continued to proceed with explaining the waivers that he and his applicant would be asking for: a grade waiver for driveways under Section 3.18.D.2.h going from a 3:1 grade to a 2:1 grade; tabulating vegetation under Section 3.18.C.3.b. He also informed the Board that they would be applying for a conditional use permit for the septic system since it would be installed on a slope greater than 15%, which would be going down slope. Mr. McCain then clarified that erosion control measures would be taken.
  - [7:45] A discussion ensued about the relationship between the building envelope and prime agricultural lands and deer wintering yards. Chair Van Winkle made the observation that the habitat block and deer wintering yard appeared to be in conflict with one another. Board Member Miller asked to what extent can the Board make the building envelope more restrictive because of a deer wintering yard, and if the deer wintering yard meant that the applicant could not clear his or her land. Mr. McCain advised that he did not see that the single-family dwelling was an adverse impact, as deer like clearings for various reasons. Mr. Timbers advised that he has not observed a lot of deer on the property.
  - [7:51] Board Member McKnight advised that she would like confirmation if a deer wintering yard exists, in addition to any potential deer corridor. She then advised that she was concerned about a possible seasonal brook being impacted when the driveway is extended. Mr. McCain advised that the driveway would be approximately 500 feet from the seasonal brook, and that any runoff from the driveway would be in a northerly direction,



rather than an easterly direction toward the brook. Board Member Turkos asked if the runoff would affect the neighbor to the north, which Mr. McCain answered in the negative.

- [7:55] Staff Member Strniste informed the Board about the possible zoning district issue. If the Board determined that the Soil & Water Conservation District was on the property, and a survey showed the property had under 25 acres, then the applicant would not be able to subdivide. Staff Member Strniste provided an overview of the chart in the Staff Report. Board Member Miller advised that the Fire Department has difficulty navigating switchbacks and curves, as last winter, one of the engines fell over.
- [7:57] Board Member Miller asked about utilities. Mr. Timbers advised that he was not anticipating to install utilities, as the lot was to remain in the family and would be off the grid. Mr. McCain advised that allowance does not mean installation, and that any installation of utilities would be underground. Board Member Miller asked how much clearing Mr. Timbers anticipated. Board Member Miller clarified that the applicant should obtain a professional assessment of the wildlife habitat on the proposed lot, and if the assessment indicates critical habitat, then the applicant should propose clearing limits. Board Member Miller asked Mr. Timbers if one acre of clearing would be enough for the solar array system, to which he did not have an answer. She then advised that a biologist may be able to confirm the extent of the deer wintering yard. Staff Member Strniste advised that a mitigation plan was also an option. Board Member McKnight reiterated that the applicant should inquire about habitat connectivity.
- [8:17] A discussion ensued about the feasibility of waiving preliminary subdivision review.
- [8:19] Staff Member Strniste advised that the Board should encourage a road maintenance agreement for the portion of the shared driveway.
- [8:21] Chair Van Winkle asked for a motion to accept the sketch plan application. Board Member Chapek asked a philosophical question on when the lot would be considered a re-subdivision, especially in the case when classifying the subdivision as a minor or major subdivision becomes a question (i.e. when is a previous subdivision taken into consideration, and whether that makes the subdivision a major subdivision, thus requiring preliminary subdivision review). Board Member Miller inquired about the slope of the road issue under Section 3.18.D.2.h. Mr. McCain advised that more earthwork would be required to meet the required 3:1 slope.
- [8:31] Staff Member Strniste advised that the applicant would have to obtain a preliminary access permit prior to the next meeting.
- [8:33] Chair Van Winkle asked for a motion to accept the sketch plan application. Board Member Turkos made a motion to accept the sketch plan application, which was seconded by Board Member Miller. The motion was approved unanimously.

### **8:18 PM – Bourassa Inquiry**

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- [8:36] Nicole Bourassa was before the Board to discuss a conceptual idea for a possible mixed-use/home industry project at 198 River Road. She advised that she wanted to live at the property and establish a cocktail lounge that would operate between Sunday and Saturday, and would seat twenty-two patrons. Board Member Miller advised that Ms. Bourassa would have to inquire about handicapped accessibility. Board Member McKnight inquired about the septic system. Ms. Bourassa then inquired about a possible green house for herbs. Board Member Miller advised that the Health Department may need to be involved. Board Member Chapek advised that the access point is tricky, and that she should explore if there are relocation options available. Board Member Miller advised that privacy and traffic concerns would likely come to the forefront during the hearing process. Board

Member McKnight advised that the neighbors that were part of a past application of similar nature were very firm about noise and traffic.

- [8:51] Staff Member Strniste advised that Mr. Russell, the current landowner, had inquired at one point about how many acres the existing lot is. Board Member McKnight inquired about the culvert from Lower English Settlement, which Ms. Bourassa informed that it would not be an issue. Board Member Chapek advised that a Floodplain existed on the lot. Staff Member Strniste informed Ms. Bourassa that a traffic study would be valuable to the Board in evaluating the impact on traffic. Chair Van Winkle advised what aspects of the study would be important. Board Member Miller asked a question regarding the Board's ability to hear the application in multiple hearings.
- [9:07] Staff Member Strniste explained the advantages and disadvantages of the application being presented as a mixed-use application versus a home industry application.

### 8:18 PM – Other Business

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- [9:15] Staff Member Strniste informed the Board of the potential schedule for the next few meeting dates.
  - [9:20] Staff Member Strniste advised that he issued the Certificate of Compliance to the Piney Grove Subdivision.
  - [8:55] Chair Van Winkle asked for a motion to adjourn. Board Member McKnight made a motion to adjourn, which was seconded by Board Member Miller. The motion was approved unanimously.
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Submitted by:

Andrew Strniste, Planning Director & Zoning Administrator

These minutes of the 09/18/2017 meeting of the DRB were accepted  
this 20 day of NOVEMBER, 2017.



Charles Van Winkle, Development Review Board Chair